is properly no failure of consideration as long as the estate continues. *Hill* v. *Woodman*, 14 Mo. 38. Since the lessee's estate is unimpaired, the principal case is clearly right. *Miller* v. *Maguire*, 18 R. I. 770. *Cf. Parks* v. *Boston*, 15 Pick. (Mass.) 198. The prevention of unjust resuits from this doctrine should be left to legislation. *Cf. Suydam* v. *Jackson*, 54 N. Y. 450.

LARCENY — PROPERTY SUBJECT TO LARCENY — UNINDORSED CHECKS. — A statute made checks subject to larceny. The defendant was indicted for larceny of an unindorsed check payable to a third party. *Held*, that in determining the value of the stolen property, the face value of the check is to be taken. *State* v. *McClellan*, 73 Atl. 993 (Vt.).

At common law a check could not be stolen, as it was merely evidence of a chose in action. *Culp* v. *State*, 1 Port. (Ala.) 33. But this rule has been almost universally changed by statutes applying to all commercial paper. The Vermont statute simply says that one who steals the check of another is guilty of larceny. VT. P. S. 5755. The guilt of the defendant seems to depend more on the fact that the check is of value to the owner than that the thief would be benefited by it. Thus one who steals an invalid note is not guilty of larceny. *Wilson* v. *State*, 1 Port. (Ala.) 118. And the same rule applies to the theft of a non-negotiable note given in pursuance of an invalid contract. *People* v. *Hall*, 74 Hun (N. Y.) 96. But if the instrument would be valid in the hands of some one, it does not seem necessary that the defendant should find it of value. *Phelps* v. *People*, 72 N. Y. 334. By the statute, the check becomes a thing of value in itself. So in the principal case the defendant, by taking the check, deprived the payee of something of value and was therefore rightly convicted.

LEGACIES AND DEVISES — TITLE AND RIGHTS OF DEVISEES AND LEGATEES — DIVIDENDS ON SPECIFIC LEGACY ERRONEOUSLY TRANSFERRED. — A testator made a will bequeathing certain specific shares of stock to the defendants. After probate of the will the shares were transferred by the executors, and the defendants received several dividends thereon. A codicil was later discovered, bequeathing a portion of these shares to the plaintiff. The original probate was revoked, and a fresh probate of the will and codicil granted. The plaintiff now seeks to recover not only his portion of the shares but all dividends received thereon since the testator's death. *Held*, that the plaintiff can recover both shares and dividends. *West* v. *Roberts*, [1909] 2 Ch. 180. See NOTES, p. 215.

LIBEL AND SLANDER — PLEADING AND PROOF — LIBEL WITHOUT INTENT. — A newspaper published an imaginary account of a supposedly fictitious character. The name used was that of the plaintiff, a prominent barrister of the locality, whose friends reasonably believed that he was the person referred to. The defendant did not intend to refer to the plaintiff, and had no intention of libelling any one. The plaintiff brought action for libel. *Held*, that he can recover. *Jones* v. *Hutton & Co.*, L. R. (1909) 2 K. B. 444. See NOTES, p. 218.

PATENTS — INFRINGEMENT — CONTRIBUTING TO VIOLATION OF LICENSE. — The complainant sold patented sealing machines on condition that they be used only with seals made by the complainant, but not protected by patent. The defendant, with knowledge of these facts, sold seals of its own manufacture for use on these machines. *Held*, that the sale can be enjoined. *Crown Cork & Seal Co.* v. *Brooklyn Bottle Stopper Co.*, 172 Fed. 224 (Circ. Ct., E. D., N. Y.).

A patentee may impose restrictions on the use of his product when he sells it. *Victor Talking Machine Co.* v. *The Fair*, 123 Fed. 424; *Bement* v. *National Harrow Co.*, 186 U. S. 70. (A different rule prevails as to copyrights. See 22 HARV. L. REV. 228.) Thus a stipulation that all supplies used with a patented machine shall be purchased from the patentee is valid, though the supplies are unpatented. *Heaton-Peninsular Button-Fastener Co.* v. *Eureka Specialty Co.*, 77

Fed. 288. Whether or not unpatented "ordinary commodities" may be controlled in this indirect way is doubtful; but the seals in the principal case were held not to be "ordinary commodities." *Cf. Cortelyou* v. *Johnson*, 145 Fed. 933; *Dick Co.* v. *Henry*, 149 Fed. 424. The sale of an article to one who uses it in violation of his license is not actionable, if the seller has no notice of the license. *Cortelyou* v. *Johnson, supra.* But one who sells with notice is guilty of contributory infringement. *Rupp & Wittgenfeld Co.* v. *Elliott*, 131 Fed. 730; *Thomson-Houston Electric Co.* v. *Kelsey Electric Ry. Specialty Co.*, 75 Fed. 1005. So liability is primarily dependent on knowledge. The courts have not made it clear whether the wrong consists in inducing the breach of a contract or in acting in concert with a tortfeasor. See *Heaton-Peninsular Button-Fastener Co.* v. *Eureka Specialty Co., supra; Tabular Rivet & Stud Co.* v. *O'Brien*, 93 Fed. 200; *Dick Co.* v. *Henry, supra.* The principal case, however, may be supported on either theory, and its result, though practically allowing a monopoly in an unpatented article, accords with previous decisions. See 12 HARV. L. REV. 35; 21 *ibid.* 150.

PUBLIC OFFICERS — ELIGIBILITY TO OFFICE — INCOMPATIBLE OFFICES. — *Held*, that the mayor of a city does not vacate his office by acting as a member of Congress. *Ohio* v. *Gebert*, 12 Oh. Cir. Ct. R. N. S. 274.

At common law one person can hold two offices unless they are incompatible. *Preston* v. *United States*, 37 Fed. 417. Offices are said to be incompatible when their duties are so numerous and exacting that the same person cannot perform them with ease and ability, or when they are so related that a presumption fairly arises that they cannot be executed by the same person with impartiality and honesty. See 6 BACON'S ABRIDGMENTS, Tit. Offices (K). Incompatibility does not consist in the physical impossibility to discharge the duties of both offices at the same moment. *People* v. *Green*, 58 N. Y. 295. But see *South Carolina* v. *Buttz*, 9 S. C. 156. But if one office is subordinate to the other, or if one is subject in some degree to the revisory power of the other, or if the functions of the two are inherently inconsistent and repugnant, they are incompatible. *State* v. *Goff*, 15 R. I. 505. In the present case, the laws enacted by Congress do not affect the powers and administration of the office of mayor, nor is the administration of the office of mayor subject to the review of Congress. Therefore the offices are not incompatible, and the acceptance of the second does not *ipso facto* operate as a surrender of the first. *Bryan* v. *Cattell*, 15 Ia. 538.

RESTRAINT OF TRADE — SHERMAN ANTI-TRUST LAW — STANDARD OIL COMPANY'S CASE. — The majority stock of twenty formerly competitive corporations, engaged in interstate commerce and in turn controlling many smaller companies, was jointly owned by the former holders of certificates in a previous trust. The majority stock of nineteen of these corporations was transferred in exchange for the stock of the twentieth, the Standard Oil Company of New Jersey, the capital stock of which was increased and the charter amended for this purpose. The business was then conducted by this corporation as a single enterprise. *Held*, that the transaction constitutes a combination in restraint of, and to monopolize, interstate commerce in violation of § 1 and § 2 of the Sherman Act. *U. S.* v. *Standard Oil Co. of N. J.*, 173 Fed. 177 (Circ. Ct., E. D. Mo., Nov. 20, 1909). See NOTES, p. 209.

RULE AGAINST PERPETUITIES — RULE AGAINST POSSIBILITY ON POSSIBILITY EXTENDED TO EQUITABLE ESTATES. — An estate in trust under a settlement was appointed to unborn children for their lives, with a remainder to the children of such children. The appointment under the devise satisfied the rule against perpetuities. *Held*, that the appointment is invalid. *In re Nash*, [1909] 2 Ch. 450.

This decision is an application of a rule of law affecting the validity of contingent remainders, to equitable estates analogous to contingent remainders. In